

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON APPROPRIATIONS

Call to Order: By **CHAIRMAN DAVE LEWIS**, on February 24, 2003 at 3:20 P.M., in Room 102 Capitol.

ROLL CALL

Members Present:

Rep. Dave Lewis, Chairman (R)
Rep. Rosalie (Rosie) Buzzas, Vice Chairman (D)
Rep. Edith Clark, Vice Chairman (R)
Rep. John Brueggeman (R)
Rep. Tim Callahan (D)
Rep. Stanley (Stan) Fisher (R)
Rep. Eve Franklin (D)
Rep. Dick Haines (R)
Rep. Donald L. Hedges (R)
Rep. Joey Jayne (D)
Rep. Carol C. Juneau (D)
Rep. Dave Kasten (R)
Rep. Christine Kaufmann (D)
Rep. Monica Lindeen (D)
Rep. John Musgrove (D)
Rep. Jeff Pattison (R)
Rep. Rick Ripley (R)
Rep. John Sinrud (R)
Rep. John Witt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Jon Moe, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: HB643, HB120, HB249, HB724,
2/21/2003
Executive Action: None

HEARING ON HB 643 and 724

Sponsor: REP. JOE BALYEAT, HD 32, Bozeman

Opening Statement by Sponsor:

REP. BALYEAT read testimony from Exhibit 1 and handed out Exhibits 2 and 3.

EXHIBIT (aph41a01)

EXHIBIT (aph41a02)

EXHIBIT (aph41a03)

Proponents' Testimony: HB 643

None

Opponents' Testimony: HB 643

Linda McCulloch, Superintendent of Public Instruction read testimony from and explained Exhibits 4, 5 and 6.

EXHIBIT (aph41a04)

EXHIBIT (aph41a05)

EXHIBIT (aph41a06)

{Tape: 1; Side: A; Approx. Time Counter: 0 - 29.6}

Kris Goss, Governor's Office, said the Office of Public Instruction (OPI) has taken a series of cuts in the past few years. When they were formulating the executive budget, they made sure not to reduce those services for schools. This is an agency that does its job both effectively and efficiently and he urged the committee to adopt the executive budget proposal for OPI as further reductions to this agency would cause harm to the students of Montana.

Erik Burke, MEA/MFT said he also speaks on behalf of Mr. Bob Vogel, Montana School Boards' Association. This bill tends to gloss over the real debate, which is the duties the bureaucracies are performing. In terms of bureaucracies, OPI administers the largest budget in state government. They are responsible for getting money to schools from both the state and federal levels and they do that well. They are responsible for oversight and accountability in relation to those dollars and in relation to our certification and accreditation standards which are required under statute. They operate with the same annual general fund appropriation as the Governor's office. They have far more statutory duties but use the same budget as the Governor's office. There are simply not enough resources within the OPI to

sustain a \$3 million cut over the next biennium and still serve as expected from them.

Informational Testimony: HB 643

None

Proponents' Testimony: HB 724

None

Opponents' Testimony: HB 724

Gail Gray, Director, Department of Public Health and Human Services, said;

1) The Health and Human Services appropriation subcommittee completed their recommendations for the 2004 and 2005 Health and Human Services budgets. They spent 39 days, four hours a day, on this. Their recommendations, based on the testimony of hundreds of people, are the appropriate ones.

_____2) A \$2 million cut in personal services for each year of the upcoming biennium is more than \$4 million when matching funds are considered. It more than doubles the impact.

3) Seventy-two percent of all positions for the Department of Public Health and Human Services (DPHHS) are outside of Helena. This department has seven institutions in the state:

Montana Development Center in Boulder.
Eastmont Human Services Center in Glendive.
The Mental Health Nursing Care Center in Lewistown.
The Veterans' Home in Columbia Falls.
The Veterans' Nursing Center in Glendive.
The Chemical Dependency Center in Butte.
Montana State Hospital in Warm Springs.

All of these but the Veterans' Center in Glendive are staffed by state employees.

4) The Department has already sustained substantial cuts over the past year and a half. Some because the needs of their constituents were greater than the appropriation that was available. Some because federal funds and state revenue did not come in at the level anticipated.

5) Prescription drugs, under the Mental Health Services Plan, have no matching funds because they are not

Medicaid. To fund the prescription drugs under the Mental Health Services Plan is their objective and is very important; but it would put in jeopardy the ability of the department to run many of the other programs and the cost to their providers, and to their clients, is just too great.

Todd Luvshin, MEA/MFT and Montana Public Employees' Association, said, "Between the above associations, they represent over 2500 state employee members that work within Public Health and Human Services. This is not the way to fund other programs. There are other options."

Informational Witness: HB 724

None

Questions from Committee Members and Responses:

REP. BUZZAS asked Superintendent McCulloch how much General Fund money does OPI currently get. **Ms. McCulloch** said the General Fund amount is about \$4.2 million per year and that is before the executive budget cuts. After the executive budget cuts it is about \$3.7 million each year of the biennium.

REP. BUZZAS asked the sponsor how he arrived at the \$3 million figure. **REP. BALLEAT** said, "He came up with the \$3 million after looking at their General Fund money and their total funds for the Human Services budget. There was about \$12 million total for all funds so he envisioned it as a 25% cut. There was \$9 million total for the General Fund budget so he assumed roughly 33% of their total General Fund appropriation." **REP. BUZZAS** asked the sponsor if he is still comfortable in cutting \$3 million out of a \$3.7 million allocation that they are currently scheduled to get from the General Fund. **REP. BALLEAT** said his bill calls for \$3 million for the biennium. The Human Services budget is roughly \$3.8 million per year after the cuts, so would be just under \$8 million for the biennium.

REP. JAYNE asked Director Gray to speak on the mental health prescription drug funding. **Ms. Gray** said there are two types of mental health prescription drugs. One is under the Medicaid program and that is actually allocated and accounted for under the Health Policy Service. The part she refers to is the prescription drug benefit under the Mental Health Services Plan.

REP. KASTEN said in the K-12 budget there are about \$1,060,000,000 that goes into K-12 and about \$500 million goes into the classroom. The Superintendent testified there are 26,000 employees. His figures show 26,408 FTEs and of that

number, 12,601 are teachers. Also for every 1.2 caseworkers there is a supervisor and asked the sponsor to respond. **REP. BALLEAT** said he believes there is an excess of bureaucracy taking place.

{Tape: 1; Side: B; Approx. Time Counter: 0 - 27.4}

REP. FRANKLIN referred to the experience of Bonnie Adee, Mental Health Ombudsman, and asked her to speak on the labor intensive nature of mental health services. **Ms. Adee** said she hears from the people who are users of the public mental health system and she definitely agrees with the sponsor that a critical issue is access to medication. In the mental health field, things work as a system, in terms of people being able to access services and not falling through gaps. She does feel that the state FTEs are responsible for resolving problems of eligibility determination and creating and sustaining the systemic nature of the mental health system. There is already quite a significant vacancy in the staffing in the mental health services bureau. That is a difficulty sometimes in getting things responded to and fixed in a timely manner, not because no one wants to but just because of the workload.

In response to a question from **REP. FRANKLIN**, **Ms. McCulloch** said she has a staff that actually distributes money to schools. That staff figures out funding formulas that are passed down from the legislature. It is also the staff that takes that information, turns it into forms, both electronically and on paper. There is also staff that licenses teachers. The accreditation of schools is also another major division. There are people in everything from special education to audiology. Adult education is also sponsored by state money.

REP. FRANKLIN referred to Director Gray's testimony that 72% of DPHHS people are community based. Funding for prescriptions for the mentally ill is important. She asked **Kathy McGowan, Montana Council of Community Mental Health Centers**, "What happens to help the chronically mentally ill be assessed and allows them to carry through on mental health prescriptions?" **Ms. McGowan** said, "Generally speaking, they access people either who have come directly from the state hospital or jails and homeless shelters. One of the most important things they do immediately is either make sure they stay on their medications or try to get them on medications and keep them on medications. That requires a lot of attention by case managers and others because some of the medications may have some side effects that aren't very pleasant or people start to feel well, and don't feel as pressed to take medicine anymore."

REP. WITT asked Superintendent McCulloch if she does any oversight on the bureaucracy groups of nine, (OPI, Board of Education, MSBA, MHSA, MASA, MEA/MDT, local superintendents, county superintendents and the new MQEC) such as providing office space, vehicles, travel, or funding for lobbyists. **Ms. McCulloch** answered no to each question.

In answer to a question from **REP. KAUFMANN**, **Director Gray** said the \$2 million that goes into the prescription drug program of the Mental Health Services Plan, is not Medicaid. There is no way to get more money. The \$2 million reduction in staffing would cost more than \$4 million, depending on which staff was cut. If someone that is 100% General Fund is cut, then that is why they are cut but most of the staff is federally funded. In fact, the allocation for the total department is 60%.

REP. KAUFMANN referred to the bureaucracy, or administrative positions, in the local school districts. "Does HB 643 in any way affect administrative positions in schools?" **Mr. Burke** said, "No, he did not see this bill in any way impacting local school districts."

REP. KAUFMANN referred the sponsor to the nine bureaucracies he complained about. "Why did he only target one?" **REP. BALLYEAT** said he did not suggest that those nine bureaucracies are all funded out of the General Fund. He said ultimately they are funded by the taxpayers. He went after one of the nine bureaucracies that has General Funding.

REP. RIPLEY asked Superintendent McCulloch for further explanation of Exhibit 6.

Closing by Sponsor:

REP. BALLYEAT closed the Hearing on HB 643 and HB 724 by reading from Exhibit 7.

EXHIBIT (aph41a07)

{Tape: 2; Side: A; Approx. Time Counter: 0 - 29.7}

HEARING ON HB 249

Sponsor: **REP. DEBBY BARRETT**, HD 34, Dillon

Opening Statement by Sponsor:

REP. BARRETT said she has been working with Montana Association of Counties (MACo) for almost two years regarding the issue of

game damage to private land in Montana. This has been a priority for both the public lands subcommittee at MACo and the agriculture subcommittee of MACo for quite some time. Agriculture people throughout Montana have been dealing with wildlife damage to their property for over seventy years and every year as the wildlife population increases, unfortunately so does damage. This issue is a growing area of concern for urban areas too. When issues of public health and safety become a problem, then it is time to legislate in this state.

If the main reason for today's high record numbers of wildlife population is that the Fish, Wildlife and Parks are increasing those populations in order that sportsmen and sportswomen can harvest more trophies then the onus must remain with that agency to deal with the unintended consequences of their decision to continually allow those game populations to increase.

This bill would allow a city or a town to adopt an ordinance or a resolution restricting game animals within the enforcement areas of their boundaries and then it would require the Department of Fish, Wildlife and Parks to develop and implement a program for the removal of the game animals from that town.

Proponents' Testimony:

Elaine Mann, Commissioner, Broadwater County, said she attended MACo meetings the sponsor spoke of and there is an immense problem as stated above. There is also an economic issue as there are increases in insurance programs for liability.

REP. JOHN WITT, HD 89, related problems in Fort Benton concerning a deer hunt and asked the sponsor if the bill could be amended to include Canadian Honkers.

Opponents' Testimony:

Robert Throssell, Montana Wildlife Federation, said the Federation clearly recognizes there is a problem with over-population of wildlife in certain areas. Some of those areas may be urban areas. But to simply implement a plan of killing the wildlife doesn't get to the heart of the problem. There is the problem of the public feeding the wildlife.

Sportsmen and sportswomen of the state, through the purchase of hunting licenses and the purchase of equipment on which there is a tax, bring money back to the state. To use sports persons' dollars or essentially a program to kill wildlife that someone determines is a problem, is strongly opposed by the Federation.

Informational Testimony:

Jeff Hagener, Director, Montana Fish Wildlife and Parks (FWP) read testimony from Exhibit 8 and handed out Exhibit 9.

EXHIBIT (aph41a08)

EXHIBIT (aph41a09)

Questions from Committee Members and Responses:

REP. PATTISON asked **REP. BARRETT** why she didn't sign the fiscal note. **REP. BARRETT** said she didn't agree with it. The funds are not sportsmen's dollars, they are what nonresidents are assessed. In the last ten years the FWP have spent \$40,000 in towns so she doesn't agree with their fiscal note.

REP. PATTISON referred to Mr. Hagener's testimony, Exhibit 8, asking how many "large numbers of animals" are anticipated to be removed. **Mr. Hagener** said an example would be either here in Helena or in Missoula. Currently in the Helena area they believe there are 300 to 400 deer and they are within the city limits. That would have to be a situation of trapping and transferring them as it wouldn't be allowable to shoot them within the city limits.

REP. PATTISON asked Mr. Hagener to explain the FTEs he is anticipating. **Mr. Hagener** said, "Putting a fiscal note together is an extremely difficult situation. There are several late seasons going on such as trapping and ice fishing. They would have to put on additional people to actually have a full-time operation. Right now the department spends about \$280,000 on strictly safety issues, such as dealing with large predators, such as bears and mountain lions. In addition to that they will have an occasional moose or elk who are considered a safety hazard and have to be removed."

{Tape: 2; Side: B; Approx. Time Counter: 0 - 28.3}

REP. WITT asked **Mr. Throssell** to explain a portion of his testimony. **Mr. Throssell** said the Montana Wildlife Federation, an organization of over 7,000 sportsmen and sportswomen in the state and out-of-state promote hunting opportunities and believe what they are experiencing with wildlife damage, whether it's in urban areas or on farms and ranches throughout the state, is a result of a combination of things. The hunting isn't being used as a tool to properly manage these herds. There are a number of factors that go into that as to why a herd would end up in a town. It is a larger problem that needs to be addressed and not by a program like this. There are other issues involved.

REP. RIPLEY referred a question to Director Hagener. "Does the Department have a plan to solve this problem?" **Mr. Hagener** said what they have tried to do is make as much as an educational effort as they can and make it unfriendly for the wildlife to be there. In addition they are working with various towns and cities around the state to try to whittle down the numbers. The Department has stepped up their efforts to remove deer in those areas that are a problem.

In response to questions from **REP. KASTEN**, **Mr. Hagener** said they do not do game surveys over cities and towns.

There was a nonresident fee increase last year but for the licenses that go through the draw auction, there were 11,500 eligible for the combination licenses. They still had over 25,000 applications for that. They had a late season with additional doe tags and people were willing to buy those. There was no shortage of people.

REP. HEDGES asked **Mr. Throssell** if he would agree to the bill if it was funded through a tax on assiduous trees. **Mr. Throssell** said he had some knowledge of planting trees in Helena and they have, in their work, steered people away planting those fruit trees for that very reason. That is part of the issue. Other things can be done to keep the deer out, however.

The Federation would encourage a program that utilized hunting and harvesting of the animals as a way of controlling the problem.

Closing by Sponsor:

REP. BARRETT said it is nonresidents' sports dollars that will fund this bill and nonresidents pay two-to-one what residents pay. If the Department is increasing game animals for the sports men and women in this state and the rest of the population is dealing with the damage, the onus should stay with that Department to clean them out. The sponsor then closed the hearing on HB 642.

HEARING ON HB 120

Sponsor: **REP. LENHART, HD 2, Glendive**

Opening Statement by Sponsor:

REP. LENHART said this bill allows county detention officers to transfer from the Public Employees' Retirement System (PERS) and

provide that all new county detention officers must become members of the Sheriffs' Retirement System (SRS). A detention officer who is currently on PERS may elect to stay in that system. Detention officers' pay will decrease 2.345 percent because their PERS rate is 6.9 percent and the SRS rate is 9.245 percent. The counties support this bill as do the sheriffs. The purpose of the bill is that, with a better retirement, detention officers will stay longer. The average age of the detention officer is 39.2 years of age with 4.7 years of service.

Proponents' Testimony:

Kathy McGowan, Montana Sheriffs and Peace Officers' Association explained amendment HB012003.ash, Exhibit 10 and a handout, Exhibit 11.

EXHIBIT (aph41a10)

EXHIBIT (aph41a11)

{Tape: 3; Side: A; Approx. Time Counter: 0 - 29}

Don Hargrove, representing **Gallatin County** is in support of this piece of legislation as something that is logical and fair.

Opponents' Testimony:

Kelly Jenkins, General Counsel, Public Employees Retirement Board, said there is a definition issue here. The problem is not with any particular definition as they can agree to any definition. The problem is systemic; i.e., if detention officers are brought into a retirement system where previously there was a clear certification requirement for nearly all of the members of all of those law enforcement systems, suddenly there is no longer a bright line. It is important to have a bright line definition and it doesn't make any difference what definition is adopted, as long as it involves detention officers.

HB 120 may actually make it harder to recruit people into the detention officer business and the reason for that is, it is going to decrease their take-home pay. Contributions into the Sheriff's Retirement System are almost 2.5 percent more than what they are in the PERS. That means 2.5 percent less take-home pay for those detention officers than what they would have had otherwise. It is roughly \$600 on a \$25,000 salary. The Board had grave concerns, particularly when they costed it out.

Mike O'Connor, Executive Director, Public Employee Retirement Administration said currently the detention officers are in PERS and the difference in the rate is, the employer will pay \$275,300 per year more in employer contributions. It also increases cost

to the Sheriff's Retirement System. To pay the full cost of the benefits in this system and after adding detention officers would be an additional 1.13 percent of salary. That equates to \$395,000 to pay the full cost of benefits provided in the system.

The past two years have not been good in the investment world for retirement systems. The investment return for the last two years has been negative in all retirement systems.

Informational Testimony: None

Questions from Committee Members and Responses:

REP. WITT referred a question to Mr. O'Connor about a buy-out enticement. **Mr. O'Connor** said the problem is, most employees feel they won't be there long enough to get the benefit of this retirement and when they look at terminating, 80 percent to 90 percent take the money rather than rolling it over into another retirement system.

In answer to another question from **REP. WITT** concerning raising taxes in counties, **Mr. O'Connor** said that is the county's obligation and would be for the next thirty years.

In response to a question from **REP. FRANKLIN**, **Ms. McGowan** said it minimally affects most of the counties because most of the counties do not have much detention staff any longer. That is because law enforcement has changed so much in the state. The county commissioners met with the sheriffs in every county and agreed that the overall fiscal impact would not be negative for them because of issues she talked about in her presentation.

Closing by Sponsor:

REP. LENHART said some of the starting salaries for detention officers are \$7.70 an hour and take quite a risk as they are the ones that handle the prisoners. The sponsor then closed the Hearing on HB 120.

CHAIRMAN LEWIS made announcements concerning the order of business for tomorrow.

ADJOURNMENT

Adjournment: 6:30 P.M.

REP. DAVE LEWIS, Chairman

MARY LOU SCHMITZ, Secretary

DL/MS

EXHIBIT (aph41aad)